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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,774	10/01/2003	Neal A. Starks	60,244-007	7916
	7590 11/27/200 ASKEY & OLDS, P.C.	•	EXAMINER	
400 WEST MAPLE ROAD			PHAN, HAU VAN	
SUITE 350 BIRMINGHAN	M, MI 48009		ART UNIT	PAPER NUMBER
			3618	
			MAIL DATE	DELIVERY MODE
			11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/676,774	STARKS, NEAL A.	
Examiner	Art Unit	
Hau V. Phan	3618	

	Hau V. Phan	3618							
The MAILING DATE of this communication appe	ars on the cover sheet with the o	correspondence add	ress						
THE REPLY FILED <u>12 November 2007</u> FAILS TO PLACE THIS	S APPLICATION IN CONDITION F	OR ALLOWANCE.							
1. The reply was filed after a final rejection, but prior to or or this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a Not a Request for Continued Examination (RCE) in compliant time periods:	ving replies: (1) an amendment, af tice of Appeal (with appeal fee) in	fidavit, or other eviden compliance with 37 Cl	rce, which FR 41.31; or (3)						
a) The period for reply expiresmonths from the mailin	g date of the final rejection.								
b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire I Examiner Note: If box 1 is checked, check either box (a) or TWO MONTHS OF THE FINAL REJECTION. See MPEP 7	ater than SIX MONTHS from the mailin (b). ONLY CHECK BOX (b) WHEN THI	g date of the final rejection	on.						
extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee ave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as et forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, hay reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
<ol> <li>The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed AMENDMENTS</li> </ol>	nsion thereof (37 CFR 41.37(e)), to	o avoid dismissal of th	ns of the date of e appeal. Since						
3. The proposed amendment(s) filed after a final rejection, (a) They raise new issues that would require further co (b) They raise the issue of new matter (see NOTE below)	nsideration and/or search (see NO w);	TE below);							
(c)   ☐ They are not deemed to place the application in be appeal; and/or	tter form for appeal by materially re	ducing or simplifying	the issues for						
(d) They present additional claims without canceling a		jected claims.							
NOTE: (See 37 CFR 1.116 and 41.33(a)).		1	(DTOL 00.4)						
<ol> <li>The amendments are not in compliance with 37 CFR 1.1</li> <li>Applicant's reply has overcome the following rejection(s)</li> </ol>		impliant Amendment	(PTOL-324).						
6. Newly proposed or amended claim(s) would be a		timely filed amendme	ent canceling the						
non-allowable claim(s).  7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro		ill be entered and an ε	explanation of						
The status of the claim(s) is (or will be) as follows: Claim(s) allowed:	vided below of appended.								
Claim(s) allowed: Claim(s) objected to:									
Claim(s) rejected: <u>1, 3-15,17-22</u> .									
Claim(s) withdrawn from consideration:	•								
<ul> <li>AFFIDAVIT OR OTHER EVIDENCE</li> <li>The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good an was not earlier presented. See 37 CFR 1.116(e).</li> </ul>	nt before or on the date of filing a N d sufficient reasons why the affida	otice of Appeal will <u>no</u> vit or other evidence is	t be entered and necessary and						
9. The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessar	overcome all rejections under appe	al and/or appellant fai	ls to provide a						
10. ☐ The affidavit or other evidence is entered. An explanatio REQUEST FOR RECONSIDERATION/OTHER	•	, , ,	•						
11. 🛭 The request for reconsideration has been considered bւ	t does NOT place the application i	n condition for allowar	nce because:						
See Continuation Sheet.  12. ☐ Note the attached Information Disclosure Statement(s).	(PTO/SB/08) Paner No(s)	11 h	1						
13. Other:	(1 10/0B/00) 1 aper No(s).	Hough	m						
		Hau V Phan Primary Examiner Art Unit: 3618	19/07						

**Application No. 10/676,774** 

Continuation of 11. does NOT place the application in condition for allowance because: The final reject is still deem proper. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The Supreme Court's decision in KSR holds that an invention may still be obvious in the absence of such a teaching, suggestion or motivation. In other words, the Court struck down any requirement that there must be a teaching, suggestion or motivation in order to hold an invention obvious. All of the speculation resides in what alternative test is to be applied to render an invention obvious in the absence of a teaching, suggestion or motivation. The common sense selection test holds that the mere selection of elements from various prior art references and combining them together with no change in their respective function is a matter of common sense to one skilled in the art, and, therefore, obvious and not patentable. In this case, Starks fails to disclose a second quick release (86) connection between the support and the bicycle accessory. Hsieh in figures 4-8, teach a coupling structure of extensible shafts comprising an inner tube (40), an outer tube (30) and a positioning device (50). The positioning device has first and second quick release connections (54). Therefore; combining Hsieh into Starks does not change respective functions of Starks.